IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA
Wheeling

JODY HERRING,

        Petitioner,

v.   **Civil Action No. 5:23-CV-24**
                                                   Judge Bailey

WARDEN RAY,

        Respondent.

ORDER ADOPTING REPORT AND RECOMMENDATION

The above-styled case came before this Court for consideration of United States Magistrate Judge James P. Mazzone's Report and Recommendation [Doc. 6], filed on January 31, 2023. Therein, Magistrate Judge Mazzone recommends that the petitioner's petition [Doc. 1] should be denied and dismissed without prejudice.

This Court is charged with conducting a *de novo* review of any portion of the magistrate judge's report to which a specific objection is registered, and may accept, reject, or modify, in whole or in part, the recommendations contained in that report. 28 U.S.C. § 636(b)(1). However, absent prompt objection by a dissatisfied party, it appears that Congress did not intend for the district court to review the factual and legal conclusions of the magistrate judge. ***Thomas v. Arn***, 474 U.S. 140 (1985). Additionally, any party who fails to file timely, written objections to the magistrate judge's report pursuant to 28 U.S.C. § 636(b)(1) waives the right to raise those objections at the appellate court level. ***United States v. Schronce***, 727 F.2d 91 (4th Cir. 1984), *cert. denied*, 467 U.S. 1208 (1984). No

objections have been filed to the magistrate judge's report and recommendation.
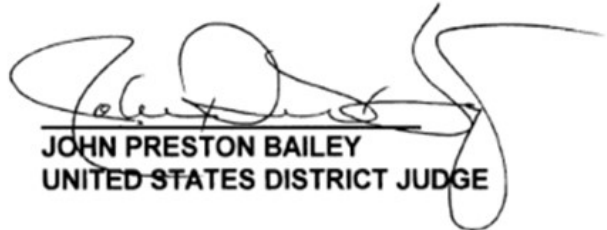
A review of the record indicates that the magistrate judge's report accurately summarizes this case and the applicable law. Accordingly, the magistrate judge's report and recommendation [**Doc. 6**] is **ORDERED ADOPTED** and petitioner's petition [**Doc. 1**] is **DENIED** and **DISMISSED WITHOUT PREJUDICE.**

This Court further **DIRECTS** the Clerk to **STRIKE** this case from the active docket of this Court.

It is so **ORDERED**.

The Clerk is directed to mail a of this Order to any counsel of record and to mail a copy to the *pro se* petitioner.

DATED: February 23, 2023.

JOHN PRESTON BAILEY
UNITED STATES DISTRICT JUDGE